

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

In re

CHRISTINE ELIZABETH OLIVAS,

No. 07-10319

Debtor(s).

Memorandum on Motion to Extend Stay

The court agrees with *In re Whitaker*, 341 B.R. 336 (Bkrtcy.S.D.Ga.2006), that under § 362(c)(3)(B) of the Bankruptcy Code the court cannot extend the automatic stay for a repeat filer after it has expired. The court also agrees that in an appropriate case § 105(a) of the Code may be invoked to give the debtor relief which replaces, at least in part, the protection lost when the automatic stay expired. However, the court does not agree that such relief can be granted by motion; FRBP 7001(7) requires an adversary proceeding for such equitable relief.

The debtor's motion to extend the automatic stay will accordingly be denied, without prejudice to an adversary proceeding. Any party may submit an appropriate form of order.

Dated: April 26, 2007


Alan Jaroslovsky
U.S. Bankruptcy Judge